

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

VETERANS FOR PEACE, GREATER
SEATTLE, CHAPTER 92, aka
VETERANS FOR PEACE, a nonprofit
corporation,

Plaintiff,

v.

CITY OF AUBURN, a municipal
corporation,

Defendant.

No. _____

COMPLAINT

I. INTRODUCTION

1. Defendant City of Auburn has engaged in unlawful viewpoint discrimination by excluding Plaintiff Veterans for Peace, Greater Seattle, Chapter 92 (“Veterans for Peace”) from the 2012 Auburn Veterans Day Parade, a parade in which Plaintiff Veterans for Peace has marched for the last six years.

2. The purpose of the 2012 parade is “to positively focus on honoring our country’s veterans and active military personnel,” and “to give honor to our country’s military personnel and veterans and to their military missions of defending freedom around the world.” Plaintiff Veterans for Peace “positively focus[es] on honoring” and “give[s] honor” to veterans and active military personnel through its pro-peace message and activities.

3. Defendant limits parade participation to certain types of groups, including veteran groups such as Plaintiff Veterans for Peace. Claiming that it receives more parade applicants than it can permit to participate, Defendant states that it approves only those applications “that most closely meet the goals and purpose of Auburn’s Veterans Day Parade.” Although Plaintiff Veterans for Peace has participated in Auburn’s Veterans Day Parade previously, this year Defendant denied Plaintiff Veterans for Peace’s application to participate in the parade.

4. Defendant’s Veterans Day Parade rules and regulations are unconstitutional on their face and as applied to Plaintiff Veterans for Peace’s application in violation of the First Amendment of the United States Constitution because they are unreasonable in light of the purpose served by the forum -- a parade, and are not viewpoint neutral.

II. PARTIES

5. Plaintiff Veterans for Peace is a 501(c)(3) nonprofit corporation and veterans’ organization. Veterans for Peace engages in a range of pro-peace activities to increase public awareness of the costs of war, to restrain the federal government from intervening in the internal affairs of other nations, to end the arms race and reduce and eventually eliminate nuclear weapons, to seek justice for veterans and victims of war, and to abolish war as an instrument of national policy.

6. Defendant City of Auburn is a Washington noncharter code city governed by Chapter 35A.12 RCW. *See* AMC § 1.08.010.

III. JURISDICTION AND VENUE

7. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C. § 1343 (civil rights jurisdiction).

8. The Court has personal jurisdiction over Defendant City of Auburn.

9. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b).

IV. FACTS

10. For the last 46 years, Defendant City of Auburn has sponsored an annual Veterans Day Parade that Defendant asserts is one of the largest of its type west of the Mississippi.

1 11. Participation in the parade is governed by rules and regulations issued by
2 Defendant.

3 12. The purpose of the 2012 Auburn Veterans Day Parade is “to positively focus on
4 honoring our country’s veterans and active military personnel,” and “to give honor to our
5 country’s military personnel and veterans and to their military missions of defending freedom
6 around the world.” Defendant City of Auburn states that it receives more parade applications
7 than it can approve to participate and approves only those “that most closely meet the goals and
8 purpose” of the parade.
9

10 13. Plaintiff Veterans for Peace’s mission is to increase public awareness of the costs
11 of war; to restrain our government from intervening, overtly and covertly, in the internal affairs
12 of other nations; to end the arms race and to reduce and eventually eliminate nuclear weapons; to
13 seek justice for veterans and victims of war; and to abolish war as an instrument of national
14 policy. To those ends, Plaintiff Veterans for Peace engages in a range of pro-peace activities, and
15 marching in the Auburn Veterans Day Parade is a significant event that allows Veterans for
16 Peace to communicate its message to a broad audience.

17 14. On information and belief, Plaintiff Veterans for Peace has participated in the
18 Auburn Veterans Day Parade for the last six years.
19

20 15. On or about September 13, 2012, Plaintiff Veterans for Peace submitted an
21 application through Defendant’s website to participate in the 2012 Auburn Veterans Day Parade.
22 Plaintiff Veterans for Peace generally described its parade entry as honoring veterans and active
23 military personnel by working to restrain the government from intervening in the affairs of other
24 nations and to abolish war as an instrument of national policy so that no soldier will be ordered
25 to place limb, life, or soul in jeopardy for an unjust or unworthy cause.

26 16. Plaintiff Veterans for Peace is a “veteran group” consistent with the 2012 parade
27 rules and regulations.

28 17. Plaintiff Veterans for Peace’s participation in the 2012 Auburn Veterans Day
29 Parade is consistent with the parade’s purpose as defined by Defendant City of Auburn.

1 18. On or about October 4, 2012, Defendant denied Plaintiff Veterans for Peace's
2 parade application on the grounds that the City "receive[s] more applications than [it] can
3 successfully accommodate" in the parade, and that the City has to "choose those that most
4 closely meet the goals and purpose of the event."

5 19. On or about October 9, 2012, Plaintiff Veterans for Peace appealed the denial,
6 requesting reconsideration of its application to participate in the 2012 Auburn Veterans Day
7 Parade.

8 20. On or about October 10, 2012, Thomas Campbell, an acquaintance of a Veterans
9 for Peace member, spoke with Daryl Faber, Director of the Auburn Parks, Arts & Recreation
10 Department, who confirmed that the decision to deny Plaintiff's parade application was made
11 because of the organization's message.

12 21. On or about October 15, 2012, Defendant affirmed the denial of Plaintiff Veterans
13 for Peace's parade application on the grounds that "the parade has too many applicants, [and
14 Defendant] chose those that most closely meet the goals and purpose of the Auburn's (sic)
15 Veterans Day Parade."

16 22. On October 31, 2012, the City published the 2012 Auburn Veterans Day Parade
17 Line-Up on its website. The parade participants include among others non-veteran groups such
18 as Kiwanis International, Auburn Optimist Club, Daffodil Festival Traveling Float, ABATE of
19 Washington-South King County Chapter (ABATE is a politically active organization working on
20 motorcyclists rights), and the Classical Glass Corvette Club.

23 **V. CAUSES OF ACTION**

24 **Violation of the First Amendment of the United States Constitution**

25 23. Plaintiff incorporates by reference paragraphs 1 to 22 of this Complaint.

26 24. Defendant City of Auburn's decision to refuse to allow Plaintiff to participate in
27 the 2012 Auburn Veterans Day Parade violates the First Amendment of the United States
28 Constitution, which is made applicable to the state entities through the Fourteenth Amendment,
29 as applied. Defendant's reliance on its 2012 parade rules and regulations as justification for its

1 exclusion of Plaintiff from the 2012 parade violates the First Amendment of the United States
2 Constitution as applied and on its face.

3 25. The 2012 parade rules and regulations grant excessive discretion to government
4 officials to approve or deny applications to participate in the Auburn Veterans Day Parade. The
5 parade rules contain no criteria or standards to guide Defendant's agents in their decision to
6 approve or deny applications. The parade rules provide insufficient procedural safeguards for
7 those wishing to appeal a denial of an application to participate in the parade.

8 26. The parade rules are not reasonable in light of the purpose served by the forum,
9 and they are not viewpoint neutral.

10 27. Through the adoption of the parade rules and regulations, Defendant has, under
11 color of state law, deprived Plaintiff and its members of rights, privileges, or immunities secured
12 by the United States Constitution or laws of the United States, and they are subject to liability
13 pursuant to 42 U.S.C. § 1983.

14 28. The injuries suffered by Plaintiff cannot be fully compensated by monetary
15 damages. If enforcement of the parade rules and regulations is not enjoined, Plaintiff and its
16 members will suffer irreparable injury, including, but not limited to, the chilling of free speech
17 rights.
18

19 VI. PRAYER FOR RELIEF

20 Plaintiff respectfully requests the following relief:

21 A. A temporary restraining order and preliminary relief ordering Defendant to
22 approve Plaintiff's 2012 Auburn Veterans Day Parade application and allow Plaintiff to march in
23 the 2012 Auburn Veterans Day Parade on November 10, 2012;

24 B. Permanent injunctive relief enjoining Defendant from enforcing the 2012 Auburn
25 Veterans Day Parade rules and regulations and using them in future years for Defendant's annual
26 Veterans Day Parade;

27 C. A declaratory judgment that the 2012 Auburn Veterans Day Parade rules and
28 regulations are unconstitutional on their face and as applied;
29

1 D. Attorneys' fees and costs pursuant to 42 U.S.C. § 1988, or such other authority as
2 may authorize such an award; and

3 E. Such other relief as this Court deems proper.
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6

7 DATED: November 5, 2012

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